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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,351	02/06/2004	Douglas F. Reynolds	1033-LB1011	5256

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EXAMINER	
GAUTHIER, GERALD	
ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/774,351	REYNOLDS ET AL.	
	Examiner	Art Unit	
	Gerald Gauthier	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14,18-26,29-33,48 and 54-69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14,18,19,21-24,26,29-33,48 and 54-69* is/are rejected.

7)☒ Claim(s) *20 and 25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 13, 2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1-14, 18, 19, 21-24, 26, 29-33, 48 and 54-69** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (US 7,280,530 B2) in view of Motohashi (US 6,351,639 B1).

Regarding **claim 1**, Chang discloses a call indication method comprising:

recognizing a request to complete a voice over Internet protocol call to a called party [a caller (not illustrated) initiates a call by picking up the handset on the caller telephone 38 and dialing an ARS code, e.g. "9" for an off-net call or "8" for an on-net call, plus a PST NETWORK telephone number or other digit string, column 27, lines 50-65]);

receiving custom ring information from a calling party of the VoIP call, the custom ring information representing a calling party ring tone to be played to the called party, determining whether the calling party selected ring is allowed [the caller would select the ring through option in the browser window at the caller workstation. The browser

passes the selection to the caller gateway server. If the caller is not logged on, the caller would select the ring through option by pressing a designated key on the telephone. The caller gateway server 26 detects the DTMF tone selecting the ring through option. The caller gateway server 26 then notifies the called gateway server 126 that the caller has requested to ring through. The called gateway server 126 places an inbound call to the called PBX 134 for the called telephone 138, column 48, lines 46-62].

Chang fails to disclose when the calling party selected ring tone is allowed, initiating delivery of the custom ring information to the called party.

However, Motohashi teaches when the calling party selected ring tone is allowed, initiating delivery of the custom ring information to a telephone of the called party [the called telephone is arranged so as to accept or refuse the request to change, as the case may be. For example, the user of the called telephone can unconditionally refuse the request to change settings of his telephone by the calling party, such as a change in the volume of the ringing tone of the ringer 23 or activation/deactivation of the vibrator 24 of the called telephone, rather than unconditionally accepting the request, column 12, lines 9-48].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Chang using the teaching a setting request in advancing by the calling party accepting or rejecting the setting of the calling party because doing so would allow the called party to control the ring setting when the called party is in a do not disturb zone.

Regarding **claims 2 and 54**, Chang discloses a call indication method, further comprising utilizing a Public Switched Telephone Network node to perform at least one of the recognizing step, the receiving step, and the initiating step [column 27, lines 32-47].

Regarding **claims 3 and 55**, Chang discloses a call indication method, further comprising recognizing that a piece of customer premises equipment associated with the called party comprises specialized ring tone functionality operable to output the calling selected ring tone [column 48, lines 11-25].

Regarding **claim 4**, Chang discloses a call indication method, further comprising delivering at least a portion of the custom ring information in VoIP packets [column 48, lines 11-25].

Regarding **claim 5**, Chang discloses a call indication method, further comprising delivering the custom ring information across a wireline connection comprising a link of coaxial cable operable to carry data traffic [column 48, lines 11-25].

Regarding **claim 6**, Chang discloses a call indication method, wherein a VOIP switch initiates delivery of the custom ring information to the called party [column 48, lines 11-25].

Regarding **claims 7, 38 and 56**, Chang discloses a call indication method, further comprising: prompting the calling party to communicate the custom ring information [column 27, lines 32-47]; and

recording the custom ring information [column 27, lines 32-47].

Regarding **claims 8 and 57**, Chang discloses a call indication method, further comprising utilizing a piece of calling party CPE to perform at least one of the recognizing step, the receiving step, and the initiating step [column 27, lines 32-47].

Regarding **claims 9, 28 and 45**, Chang discloses a call indication method, wherein at least a portion of the custom ring information has a file format selected from the group consisting of a .WAV file, a .MIDI file, and an AU file [column 27, lines 32-47].

Regarding **claims 10, 39, 52 and 53**, Chang discloses a call indication method, wherein at least a portion of the custom ring information represents a spoken message [column 27, lines 32-47].

Regarding **claims 11, 40 and 58**, Chang discloses a call indication method, wherein recognizing the request to complete the VOIP call occurs after receiving the custom ring information [column 48, lines 11-25].

Regarding **claims 12, 41 and 59**, Chang discloses a call indication method, further comprising storing the custom ring information in a memory residing in a piece of calling party customer premises equipment [column 48, lines 11-25].

Regarding **claims 13, 37, 42 and 60**, Chang discloses a call indication method, further comprising storing the custom ring information in a memory located within a service provider network [column 48, lines 11-25].

Regarding **claims 14 and 61**, Chang discloses a call indication method, further comprising: recognizing caller identification information of the calling party [column 48, lines 11-25]; and

finding a location in the memory that is storing the custom ring information [column 48, lines 11-25].

Regarding **claim 18**, The combination of Chang and Motohashi discloses all the limitations of claim 18 as stated in claim 1's rejection above.

Regarding **claims 19 and 62**, Chang discloses a ring tone delivery system, wherein the network node comprises a VOIP switch operable to communicatively couple to a plurality of subscribers across links comprising twisted pair wiring [column 48, lines 11-25].

Regarding **claims 21 and 63**, Chang discloses a ring tone delivery system, wherein the network node is further operable to deliver packetized information across a cable network [column 48, lines 11-25].

Regarding **claims 22 and 64**, Chang discloses a ring tone delivery system, wherein the network node is further operable to deliver packetized information across an XDSL network [column 48, lines 11-25].

Regarding **claims 23 and 65**, Chang discloses a ring tone delivery system, further comprising a custom ring tone block list, wherein the network node is further operable to block delivery of the calling party selected ring tone when the custom ring tone block list indicates that the called party does not want to receive the calling party selected ring tone [column 48, lines 11-25].

Regarding **claims 24 and 66**, Chang discloses a ring tone delivery system, further comprising a broadband modem providing at least a portion of a link communicatively coupling the network node to a piece of telephonic equipment associated with the called party [column 48, lines 11-25].

Regarding **claim 26**, The combination of Chang and Motohashi discloses all the limitations of claim 26 as stated in claim 1's rejection above.

Furthermore Chang discloses an electronic device [95 on FIG. 3], a memory [108 on FIG. 3], a user interface [95 on FIG. 3] and an output engine [138 on FIG. 4].

Regarding **claims 29 and 67**, Chang discloses a system, wherein the memory stores additional ring tone information representing a second select ring tone, wherein the calling party selected ring tone is associated with the called party and the second select ring tone is associated with a different party [column 48, lines 11-25].

Regarding **claims 30 and 68**, Chang discloses a system, further comprising an electronic address book comprising a listing for the called party and a second listing for the different party [column 48, lines 11-25].

Regarding **claim 31**, The combination of Chang and Motohashi discloses all the limitations of claim 31 as stated in claim 1's rejection above.

Regarding **claims 32 and 69**, Chang discloses a computer-readable medium having additional computer-readable data to determine if the called party desires delivery of the information [column 48, lines 11-25].

Regarding **claim 33**, The combination of Chang and Motohashi discloses all the limitations of claim 33 as stated in claim 1's rejection above.

Regarding **claim 48**, The combination of Chang and Motohashi discloses all the limitations of claim 48 as stated in claim 1's rejection above.

Allowable Subject Matter

6. **Claims 20 and 25** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to **claims 1-14, 18-26, 29-33, 48 and 54-69** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

/GG/
March 5, 2009